

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ALLAN A DIETZEL,

Plaintiff,

Case No. 16-cv-11665

v.

Honorable Thomas L. Ludington

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

ORDER GRANTING MOTION FOR ATTORNEY FEES

On May 10, 2016, Plaintiff Allan Dietzel filed a complaint requesting judicial review of the Social Security Administration's denial of his request for disability benefits. ECF No. 1. On October 3, 2016, the parties stipulated to remand Plaintiff's suit to the Commissioner pursuant to sentence 4 of 42 U.S.C. § 405(g). The case was remanded. On October 25, 2016, Plaintiff filed a motion for attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). ECF No. 17. The next day, Defendant filed a response indicating it had no objection to Plaintiff's request for attorney fees, providing that any fees paid could be used to offset any pre-existing debt that Plaintiff might owe the United States. ECF No. 18.

Pursuant to 28 U.S.C. § 2412(d),

a court shall award to a prevailing party other than the United States fees and other expenses . . . incurred by that party in any civil action (other than cases sounding in tort), including proceedings for judicial review of agency action, brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

Because Defendant does not object to Plaintiff's request for fees and because Plaintiff prevailed, Plaintiff is entitled to fees under § 2412(d). The United States does not argue that its

position was substantially justified, and no special circumstances exist. Plaintiff's requested rate of \$172.50 per hour is reasonable and consistent with both the statutory language and recent decisions in this district. *See* § 2412(d)(2)(A)(ii); *Allshouse v. Comm'r of Soc. Sec.*, No. 07-12516, 2009 WL 4884968, at *7 (E.D. Mich. Dec. 11, 2009). Plaintiff's motion will be granted.

Accordingly, it is **ORDERED** that Plaintiff's motion for attorney fees, ECF No. 17, is **GRANTED**.

It is further **ORDERED** that Defendant Commissioner is **DIRECTED** to pay an award of attorney fees under the EAJA **in the amount of \$1,845.75** to Plaintiff's attorney, pending verification that Plaintiff owes no preexisting debt subject to offset and pursuant to the EAJA assignment signed by Plaintiff. This award will fully and completely satisfy any and all of Plaintiff's claims for fees under 28 U.S.C. § 2412.

Dated: October 31, 2016

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 31, 2016.

s/Michael A. Sian
MICHAEL A. SIAN, Case Manager